IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.295 of 2005 (O&M)
Date of decision: 18th November, 2008

Ram Chander

… Petitioner

Versus

Krishna Rani

… Respondent

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Present: Mr. Deepak Arora, Advocate for the petitioner.
Mr. R.S. Bajaj, Advocate for the respondent.

KANWALJIT SINGH AHLUWALIA, J. (ORAL)

The landlord, who was an NRI, filed a petition under Section 13-B of the East Punjab Urban Rent Restriction Act seeking eviction of the petitioner tenant. An application for leave to defend was filed, in which general, vague and omnibus denial were made to state that petitioner is not an NRI. It was further stated that petition has been instituted being a speculative litigation to take benefits of the provisions in favour of NRIs, with malafide intention. It was further stated in the application that landlord do not fulfill the pre-requisites of Section 13-B of the Rent Act. It was further stated that landlord has not returned to India. It was further stated that the intention of the landlord will not constitute fulfillment of the provisions of Section 13-B of the Act. It was further stated that petition has been filed to seek benefit of the provisions in order to enhance the value of the property and that the petition filed is an abuse of process of law. In the same tenor, it was stated that landlord is not owner of the property and she had not purchased the same prior to five years of promulgation of the Act. It was further stated that simply staying in the foreign land shall not confer the status of NRI upon the landlord. It was further stated that the landlord

had not filed the eviction petition in her own right as neither she nor her husband ever remained in ownership of the property. It was further stated that property is not required for the personal use and occupation. No details were given as to whether the landlord is possessed of any other property, as to when the property was purchased, as to what is the family of the landlord and whether the need of the landlord for reasons to be given in the application was not justified. Mere denial of the allegations in the petition will not warrant grant of leave to defend. For getting leave to defend, the tenant is supposed to make averments so that the Court can draw a view that adjudication is required and evidence is required to be led in support of the pleadings made by the parties. Mere denial for the sake of denial is not sufficient to grant leave to defend. Furthermore, it has now been held in **Baldev Singh Bajwa v. Monish Saini,** 2005(2) Rent Law Reporter 488, that all those persons, whose father/ grand father have been resident Indians and are settled abroad, can invoke the provisions enacted in their favour under Section 13-B of the Act.

I have heard Mr. Arora. He has not been able to give a solitary reason, which should warrant interference by this Court. Mr.Arora has stated that it is a necessary ingredient that an NRI should stay in India for five years in order to enable himself to invoke provisions of Section 13-B of the Act. I am afraid, this contention cannot be accepted as the same is contrary to the interpretation of law and provisions of Section 13-B rendered in Baldev Singh Bajwa's case (supra).

Hence, there is no merit in the present revision petition and the same is dismissed.

[KANWALJIT SINGH AHLUWALIA]
JUDGE

November 18, 2008
rps